

869.

PUBLIC LIBRARY TRUSTEES—CITY SCHOOL DISTRICT—ISSUANCE OF BONDS, NOTES OR MORTGAGE BONDS FOR PURCHASING LAND AND ERECTING LIBRARY BUILDINGS AUTHORIZED.

SYLLABUS:

A board of trustees of a public library of a city school district has no authority to issue bonds, notes or mortgage bonds for the purpose of purchasing land and erecting library buildings thereon.

COLUMBUS, OHIO, September 14, 1929.

HON. GEORGE ELLIOTT McCORMICK, *Ohio State Librarian, Columbus, Ohio.*

DEAR SIR:—Your letter of recent date is as follows:

“Will you kindly give me your opinion upon the following question?

The trustees of a public library of a city school district organization under Sections 7635, General Code of Ohio, et seq., wishes to purchase property and erect buildings for library purposes as provided in Section 7638 of the General Code.

Can the library board borrow money from the bank in anticipation of revenues? And if so, can they borrow it by note or by mortgage on the property or may they issue bonds for that purpose? These questions arise by virtue of a letter, copy of which is hereto attached.”

Enclosed with your inquiry is a communication, part of which reads as follows:

“A board of library trustees has in mind the acquisition of some real estate for library purposes, and desires to act in a hurry. Section 7638 provides that the board may purchase ground and erect buildings for library purposes. Can the board go to the bank and borrow money in anticipation of revenues, or otherwise, and if so, can they borrow it by note or by mortgage on the property?”

Considering first the question of the authority of a board of library trustees to issue bonds for the purchasing of land and for the erecting of buildings thereon, for library purposes, your attention is directed to an opinion of my predecessor, appearing in Opinions of the Attorney General for 1928, Volume 4, page 3097, the syllabus of which is as follows:

“Since the enactment of The Uniform Bond Act, the bond issuing authority of a school library district is the board of education and not the board of library trustees, and in the issuance of such bonds the board of education must follow the proceedings set out in said act.”

Without quoting from this opinion, it may be said that a thorough analysis is therein contained of the various statutes relating to the authority of boards of library trustees to issue bonds. After a careful consideration of this opinion, I concur in the views of my predecessor, as therein set forth, and I am of the opinion that since the enactment of the Uniform Bond Act there is no authority vested in a board of library trustees to issue bonds, and that bonds issued, for the purpose of purchasing land and erecting buildings thereon for library purposes of a city school district, may only be issued by the board of education of such district.

Your inquiry as to the issuance of notes for the aforesaid purposes, by a board of library trustees, must, in view of the foregoing, necessarily be answered in the negative, since the Uniform Bond Act has provided the complete machinery for the issuance of notes, as well as bonds.

Coming now to the question of the authority of a board of library trustees to place a mortgage on property held by such board, there is no authority for such a procedure, either legislative or constitutional, in the State of Ohio. The only authority for the issuance of mortgage bonds by a subdivision of the State, is the authority contained in Section 12 of Article XVIII of the Ohio Constitution, wherein it is provided that municipalities may issue mortgage bonds upon a public utility.

Specifically answering your questions, I am of the opinion that a board of trustees of a public library of a city school district has no authority to issue bonds, notes or mortgage bonds for the purpose of purchasing land and erecting library buildings thereon.

Respectfully,

GILBERT BETTMAN,
Attorney General.

870.

APPROVAL, BONDS OF MAHONING COUNTY—\$22,000.00.

COLUMBUS, OHIO, September 16, 1929.

Industrial Commission of Ohio, Columbus, Ohio.

871.

REAL ESTATE SALESMAN—NON-RESIDENT—APPLICANT FOR OHIO
LICENSE—REQUIRED TO FILE IRREVOCABLE CONSENT TO
SERVICE IN SUITS.

SYLLABUS:

The requirement as to filing an irrevocable consent, as provided in Section 6373-41, General Code, applies to every non-resident applicant for a license as real estate salesman as well as to every non-resident applicant for a license as real estate broker.

COLUMBUS, OHIO, September 16, 1929.

HON. ED. D. SCHORR, *Director of Commerce, Columbus, Ohio.*

DEAR SIR:—Your letter of recent date is as follows:

“Section 6373-41, General Code of Ohio, relating to non-resident requirements for a real estate license is as follows:

‘Licenses may be issued under this act to non-residents of this state and